

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNION PACIFIC RAILROAD COMPANY,</b>	)		
	)		
<b>Plaintiff,</b>	)	<b>8:08CV336</b>	
	)		
<b>vs.</b>	)	<b>ORDER</b>	
	)		
<b>UNITED STATES DEPARTMENT OF HOMELAND SECURITY, and JANET A. NAPOLITANO,<sup>1</sup> in her official capacity,</b>	)		
	)		
<b>Defendants.</b>	)		

This matter is before the court on the defendants Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 37](#)) and amended Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 40](#)). The defendants filed briefs (Filing Nos. [38](#) and [41](#)) in support of their motions. The defendants seek a stay of discovery and the “Meet and Confer” and report requirements of [Fed. R. Civ. P. 26\(f\)](#), pending resolution of the defendants’ Motion to Dismiss ([Filing No. 34](#)).<sup>2</sup> The plaintiff did not file any opposition to the defendants’ motion. Upon consideration,

**IT IS ORDERED:**

1. The defendants’ Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 37](#)) is denied as moot.
2. The defendants’ amended Motion to Stay Discovery and Rule 26 Requirements ([Filing No. 40](#)) is granted.
3. The parties shall have **twenty (20) days** from the date an order is filed on the currently pending motion to dismiss ([Filing No. 34](#)), in which to file a planning report with the court pursuant to [Fed. R. Civ. P. 26\(f\)](#), if necessary.

DATED this 14th day of April, 2009.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge

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<sup>1</sup> Pursuant to [Rule 25\(d\)](#) of the Federal Rules of Civil Procedure, Janet A. Napolitano, is automatically substituted for Michael Chertoff as the Secretary of Department of Homeland Security.

<sup>2</sup> In the alternative, the defendants seek to defer the meet and confer requirements until sometime after the planning report had been filed, however [Rule 26\(f\)](#) requires the parties to “meet and confer” *prior* to filing the planning report. Such conference between the parties provides the basis for the planning report.